

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOSEPH FOLEY and MELISSA FOLEY,)	
Individually and as Personal Representatives)	
of the Estate of JOSEPH PARKER FOLEY,)	
Plaintiffs,)	
)	
vs.)	C.A. No. 1:21-CV-_____
)	
JOHN BLAKE and DUXBURY)	
PUBLIC SCHOOLS,)	
Defendants.)	

NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT COURT
28 U.S.C. § 1441(a)

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS:

Petitioner, Duxbury Public Schools, respectfully petitions this Court, pursuant to 28 U.S.C. § 1441(a), for removal of the above-entitled action to the United States District Court for the District of Massachusetts, Civil Section, from the Superior Court of the Commonwealth of Massachusetts in and for the County of Plymouth, and for its Notice of Removal states as follows:

1. The petitioner is named as a defendant by the plaintiffs, Joseph Foley and Melissa Foley, individually and as personal representatives of the Estate of Joseph Parker Foley, in a civil action filed in the Superior Court of the Commonwealth of Massachusetts in and for the County of Plymouth, entitled Joseph Foley, et al. vs. Duxbury Public Schools, et al., Plymouth Superior Court, C.A. No. 2183CV00235. On March 31, 2021, the plaintiffs served a Summons and copy of the Complaint upon the defendant. Copies of the Summons and Complaint served upon Duxbury Public Schools are attached hereto as Exhibits "A" and "B," respectively. The petitioner has not yet answered or otherwise responded to said Summons and Complaint, nor has an appearance been filed in the Superior Court on its behalf.

2. This is a suit of a wholly civil nature brought in a Massachusetts state court. The action is pending in the Superior Court of the Commonwealth of Massachusetts in and for the County of Plymouth and, accordingly, under 28 U.S.C. § 101 and § 1441(a), the United States District Court for the District of Massachusetts is the proper forum for removal.

3. In Count III of their Complaint, plaintiffs allege that the petitioner violated the due process rights of Parker Foley as protected under the Fourteenth Amendment to the United States Constitution. Plaintiffs seek recovery for such alleged violation(s) pursuant to 42 U.S.C. § 1983. In Count IV of their Complaint, plaintiffs allege that Parker Foley was a victim of sexual harassment for which they seek recovery from the petitioner pursuant to Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681.

4. Because this civil action arises under the Constitution and laws of the United States, the United States District Court has original jurisdiction under 28 U.S.C. § 1331.

5. The petitioner is filing this Notice of Removal within thirty days of service of the Summons and Complaint, within thirty days of the date this action became removable, and within the time for filing this petition. See 28 U.S.C. § 1446(b)(1).

6. The petitioner will file a Notice of Filing of this Notice of Removal and a copy of this Notice of Removal with the Clerk of the Superior Court of Massachusetts, County of Plymouth.

7. Pursuant to Local Rule 81.1(a), the petitioners shall request of the Clerk of the Superior Court of Massachusetts, County of Plymouth, certified or attested copies of all records and proceedings in the state court and certified or attested copies of all docket entries therein, and shall file the same with this Court within thirty days after the filing of this Notice of Removal.

8. All defendants who have been properly joined and served in this matter join in or consent to the removal of the action. 28 U.S.C. § 1446(b)(2)(A).

WHEREFORE, petitioner, Duxbury Public Schools, prays that the above-entitled action now pending in the Superior Court of the Commonwealth of Massachusetts in and for Plymouth County be removed from that Court to this United States District Court.

The Defendant,
DUXBURY PUBLIC SCHOOLS,
By its Attorneys,

PIERCE DAVIS & PERRITANO LLP

/s/ John J. Davis

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing, filed through the Electronic Case Filing System, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and that a paper copy shall be served upon those indicated as non-registered participants on April 13, 2021.

/s/ John J. Davis

John J. Davis, Esq.